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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,373	10/16/2001	Mutsuhito Kaine	2001-0988A	2683
513 7590 03/24/2004 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER TZENG, FRED	
			ART UNIT 2651	PAPER NUMBER

DATE MAILED: 03/24/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/889,373

Applicant(s)

KAINE ET AL.

Examiner

Fred Tzeng

Art Unit

2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4&6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Claims 1-6 are presented for examination.

#### *Specification*

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

3. The abstract of the disclosure is objected to because it contains two paragraphs. Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kojima et al (USPN 6,580,580).

Regarding claims 1-3, Kojima discloses a magnetic recording apparatus (see column 1 lines 6-10) comprising: a disk-shaped information recording medium on which periodic physical changes providing changes of reflectivity are formed (see column 2 lines 45-47, column 3 lines 66-67, i.e., the disk 4); a light source which outputs a light beam (see column 2 lines 39-40); a diffraction element which receives the beam outputted from the light source and generates three beams (see column 2 lines 40-43); a light-converging optical system which converges the beams generated by the diffraction element on the information recording medium as a microspot (see column 2 lines 43-47); a photodetections means having three photosensitive parts which receive beams reflected and diffracted by the information recording medium and again transmitted in the aperture of the light-converging optical system, and which output signals in accordance with the quantities of received light beams, respectively (see column 2 lines 47-51 and column 5 lines 46-47); a signal processing means which

processes the signals outputted from the photodetection means to output a tracking error signal (see column 2 lines 51-53); a driving means which receives the tracking error signal outputted from the signal processing means, and determines a position of the beam on a desired track (see column 2 lines 53-55); a magnetic head which records information on the information recording medium, or reproduces or deletes information from the information recording medium (see column 2 lines 55-58, i.e., the head 14); wherein the signal processing means includes a cancel means which cancels crosstalk that occurs between the signals outputted from three photosensitive parts of the photodetection means (see column 12 lines 17-41).

***Allowable Subject Matter***

7. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (formal communications, please mark  
"EXPEDITED PROCEDURE")

Or:

(703) 308-6606 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021  
Crystal Drive, Arlington. V.A., Sixth Floor (receptionist).

10. Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Fred Tzeng whose telephone number is 703-305-4841.  
The examiner can normally be reached on weekdays from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone  
numbers for the organization where this application or proceeding is assigned are 703-  
872-9306 for regular communications and 703-746-5710 for After Final  
communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-305-  
3900.



Fred F. Tzeng

March 19, 2004